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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,436	08/29/2005	Peter Hubertus Lamers	94018	2554
7590 10/12/2010				
Welsh & Katz 120 South Riverside Plaza 22nd Floor Chicago, IL 60606-3913				
EXAMINER				
CHANG, VICTOR S				
ART UNIT		PAPER NUMBER		
1788				
MAIL DATE		DELIVERY MODE		
10/12/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/529,436

Applicant(s)

LAMERS ET AL.

Examiner

VICTOR S. CHANG

Art Unit

1783

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 2-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Introduction

1. Applicants' amendments and remarks filed on 9/29/2010 have been entered. Claim 1 has been amended. Claims 1, 26 and 27 are active.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. In response to the new matter in amended claim 1, the previous grounds of rejection have been reinstated and updated. Rejections not maintained are withdrawn.

Claim Rejections - 35 USC § 112

4. Claims 1, 26 and 27 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The foam structure is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

As stated in abstract and specification of instant application throughout, a web structure containing a foam structure is critical or essential to the practice of the invention, but the foam structure is not included in the claims 1 and 26.

Further, since specification page 4, lines 19-21 states:

"the core material is based on at least one fibrous web containing a foam-structure within the web, said-foam-structure being formed of a plurality of members,"

The term “web” is interpreted as a fibrous material, not “being formed of a plurality of members”. As such, the amended limitation in claim 1 “said web having ... and being formed of a plurality of members” is deemed to be improper and is new matter, because the plurality of members forms “foam-structure”, not “web”, and together they form the “core material”.

Rejections Based on Prior Art

5. Claims 1, 26 and 27 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Cox et al. (EP 1 010 793).

Cox’s invention relates to a core material suitable for use in closed mould systems. The core material is based on at least one fibrous web containing a foam-structure (members) within the web (abstract). The foam structure can be prepared from expandable microspheres which are introduced into the web using an optionally foamed binder material. See [0015]. The core material has a bending stiffness which allows easy bending around corners (drapable). See [0017]. In a preferred embodiment, the fibrous web containing a foam structure has a free volume of less than 60 v%. The free volume means the volume that can be accessed by resin. The remainder of the volume is a closed cell foam structure contained in the fibrous web. See [0015]. The expanded microspheres (members) have a diameter of 10-100 μm . See [0028]. The core material has open channels and permeable to resin. See [0014]. In one embodiment, accessibility for the resin (resin flow properties) are provided by disposing the microspheres mainly within the fibrous web, and are arranged to form a pattern of ‘islands’, which are separated from each other by areas (channels) containing no microspheres, but only fibers (microspheres are distributed irregularly). Preferably, the microspheres are arranged in a regular

pattern. See [0030]. The amount of expanded microsphere in the web is in general 10 to 60 v%. See [0028].

For claims 1, 26 and 27, Cox is silent about the average diameter of the channels. However, since Cox teaches generally the same structure and composition, made by the same method, and for the same end use (core material for use in closed mould systems) as the claimed invention, workable average diameter of the channels is deemed to be either anticipated, or obviously provided by practicing the invention of prior art, dictated by the same end use requirements. Regarding newly amended limitation “said web having a free volume of more than 60% and being formed of a plurality of members”, since Cox teaches that the fibrous web containing a foam structure has a free volume up to 60 v%, and the free volume means the volume that can be accessed by resin (the remainder of the volume is the foam structure contained in the fibrous web), and the amount of expanded microspheres in the web is in general 10-60 v%, the free volume of the web individually of Cox is clearly greater than 60 v%.

Response to Arguments

6. After a careful reconsideration, applicants' arguments are moot in view of the updated grounds of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR S. CHANG whose telephone number is (571)272-1474. The examiner can normally be reached on 6:00 am - 4:00 pm, Tuesday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Victor S Chang/
Primary Examiner, Art Unit 1783